

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA,

Plaintiff,

VS.

DAVID HAMMON, Sr.,

Defendant.

CASE NO. 1:05-CV-2282

ORDER  
[Resolving Doc. 98.]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On February 7, 2007, Defendant David Hammon Sr. filed a motion for leave to file a notice of appeal in this case. [Doc. 98.] The Plaintiff, the United States of America, opposes the motion. [Doc. 99.] For the reasons set forth below, the Court **DENIES** the Defendant's motion.

## I. Background

In this case, the jury rendered a verdict in favor of the Plaintiff, United States of America, and against the Defendant, David Hammon, Sr., in the amount of \$450,869.00. On September 25, 2006, the Court entered this judgment, which became final on October 13, 2006 upon the Court's denial of the Government's motion to modify and clarify the judgment. On December 8, 2006, the Plaintiff then filed a timely notice of appeal.

## II. Analysis

Under Fed. R. App. P. 4(a)(1)(B), where the United States is a party to an action a notice of appeal can be filed by any party within sixty days after the judgment or order appeal from is entered.

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Fed. R. App. P. 4(a)(3) then provides that where one party files a timely notice of appeal, as is the case here, any other parties may then file a notice of appeal within fourteen days after the date on which the first notice of appeal was filed or within the time otherwise prescribed in Rule 4(a), whichever is later. Pursuant to Fed. R. App. P. 4(a)(5), the time to file a notice of appeal may be extended by a district court only upon a motion for an extension of time offered no later than thirty days after the prescribed deadline for filing a notice of appeal.

In this case, the Defendant had until December 22, 2006 to file a timely notice of appeal pursuant to Rule 4(a)(3). Alternatively, the Defendant could have filed a motion for extension of time to file a timely notice of appeal, pursuant to Rule 4(a)(5), through January 22, 2007. Having failed to meet either of these deadlines, this Court cannot grant the Defendant's instant motion.

### III. CONCLUSION

For the reasons discussed above, the Court **DENIES** the Defendant's motion for leave to file a notice of appeal.

IT IS SO ORDERED.

Dated: March 6, 2007

s/ *James S. Gwin*  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE